

**REMARKS**

Claims 1-4 are pending. Claim 3 has been withdrawn from consideration by the Examiner for being drawn to non-elected subject matter. By this Preliminary Amendment, Claim 1 is amended. Applicants respectfully submit no new matter is presented herein.

**Claim Rejections – 35 U.S.C. §112, First Paragraph**

The Office Action dated November 15, 2005 had rejected Claims 1-2 and 4 under 35 U.S.C. §112, first paragraph, for reciting subject matter which was not described in the specification in a manner enabling one of ordinary skill in the art to make and/or use the invention. Applicants respectfully traverse the rejection for the reasons provided on page 2, line 10 to page 3, line 15 of the Response dated February 1, 2006, which is incorporated herein in its entirety by reference simply to avoid redundancy.

**Claim Rejections – 35 U.S.C. §112, Second Paragraph**

The Office Action dated November 15, 2005 also rejected Claim 4 under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter of the invention. Applicants respectfully traverse the rejection for the reason provided on page 3, line 20 to page 4, line 9 of the Response dated February 1, 2006, which is incorporated herein in its entirety by reference simply to avoid redundancy.

**Claim Rejections – 35 U.S.C. §102**

The Office Action dated November 15, 2005 had rejected Claims 1-2 and 4 under 35 U.S.C. §102(b) as being unpatentable over U.S. Patent Number 6,120,382 to Sone et al. (Sone). Applicants respectfully note the Advisory Action dated February 13, 2006, stated the arguments provided in the Response dated February 1, 2006, were considered but found not to be persuasive because the arguments were based upon a feature not recited by the pending Claims.

In this regard, Applicants have amended Claim 1 herein to recite a fixed type constant velocity joint including an outer joint member having axially extending guide grooves formed in a spherical inner peripheral surface of the outer joint member; an inner joint member having axially extending guide grooves formed in a spherical outer peripheral surface of the inner joint member; torque transmitting balls disposed in corresponding ball tracks defined by the guide grooves of the outer joint member cooperating with the guide grooves of the inner joint member; and a cage holding the torque transmitting balls, wherein an angle ( $\alpha$ ) defined by a straight line connecting a contact point between the cage and the outer joint member and a contact point between the cage and the inner joint member, and the cage center line is in a range greater than zero degrees and not more than ten degrees ***when an angle of displacement between the inner and outer joint members during which torque is transmittable is at a maximum.***

As noted on page 5 of the February 1, 2006 Response, Applicants argued in the Response of October 11, 2005 that Sone fails to teach an angle defined by a straight

line connecting the contact point between the cage (4) and the outer joint member (1) and the contact point between the cage (4) and the inner joint member (2), and the cage center line (0-0) being greater than zero degrees.

Moreover, Applicants note the Office Action dated November 15, 2005 asserted such an argument was not persuasive by noting that the drawings in Sone do not show such an angle being greater than zero because the figures of Sone merely show the outer and inner joint members being in the aligned condition (like Figure 5 of the instant application) where the angle ( $\alpha$ ) would be zero, and that when the outer and inner joints parts are angularly displaced, the angle ( $\alpha$ ) will become greater than zero. See paragraphs 8-9 on pages 3-4 of the Office Action.

Again, as in the Response dated February 1, 2006, Applicants respectfully submit that the angle ( $\alpha$ ) at issue is an angle derived on the basis of relative positions of the recited components at a maximum operating angle, that is, the maximum angle at which torque can be transmitted. Applicants note Claim 1, as amended herein, recites such a feature. The maximum operating angle in turn is determined by taking into account various factors, such as solid contact between the shaft and outer joint member opening, and deviation of the balls from the point of contact, any deviation of the balls from the contact ellipse, and the strength and durability at a higher operating angle. The maximum operating angle which defines the angle ( $\alpha$ ) cannot be defined simply by displacing the outer and inner joint parts shown in the drawing figures of Sone where the maximum operating angle is not clearly defined, but is simply described as being 45 degrees or more.

Applicants further note that it would not be practical to refer to the angle ( $\alpha$ ) where the maximum operations angle is not strictly defined since the maximum operating angle significantly affects the angle ( $\alpha$ ).

Furthermore, it is again noted that the angle ( $\alpha$ ) can exceed ten degrees, that is, it is possible for the angle ( $\alpha$ ) to be zero, and/or in a range greater than zero and not exceeding ten degrees, and/or greater than ten degrees.

Moreover, Applicants note the Office Action dated November 15, 2005 argued with certainty, but with no support, that when the outer and inner joint parts (1 and 2) of Sone are slightly displaced, the angle therebetween will be greater than zero yet not exceed ten degrees.

Applicants respectfully note the November 15 Office Action appeared to argue that such a structural arrangement necessarily provides such a result simply by slightly adjusting the angular relationship between the outer and inner parts.

Applicants note that it is well settled that the fact that a certain result or characteristic may occur or be present in the prior art is not sufficient to establish inherency of that result or characteristic. See *In re Rijckaert*, 9 F.3d 1531, 1534, 28 USPQ2d 1955, 1957 (Fed. Cir. 1993). Furthermore, in relying upon the theory of inherency, the Examiner must provide a basis in fact and/or technical reasoning to reasonably support the determination that the allegedly inherent characteristic necessarily flows from the teachings of the applied prior art. See *Ex parte Levy*, 17 USPQ2d 1461, 1464 (Bd. Pat. App. & Inter. 1990).

The Applicants respectfully repeat the argument that the November 15 Office Action clearly based the assertion that it is inherent that simply by manipulating or moving one of the outer and inner joint parts (1 and 2) of Sone will necessarily result in the two parts being angularly displaced relative to each other and that such displacement must be greater than zero degrees and not exceeding ten degrees.

As noted by the Applicants in the previously filed Response dated February 1, 2006 and repeated above, the maximum operating angle, which defines the angle ( $\alpha$ ), cannot be defined simply by displacing the outer and inner parts relative to each other as asserted by the November 15 Office Action when the maximum operating angle is not clearly defined and is merely described as being greater than 45 degrees, as is the case in Sone.

Accordingly, Applicants respectfully submit that there is absolutely nothing in the disclosure of Sone that teaches or remotely suggests that an angle greater than zero and not exceeding ten degrees would **necessarily** result simply by manipulating the outer and inner parts (1 and 2) of Sone relative to each other.

Put simply, Applicants respectfully submit that the constant velocity joint taught by Sone does not necessarily or inherently possess the structural arrangement of the invention recited by Claim 1.

To qualify as prior art under 35 U.S.C. §102, a single reference must teach, identically describe, each and every feature recited by a rejected claim.

As explained above, Sone fails to disclose or suggest each and every feature recited by Claim 1. Therefore, Sone does not anticipate or render obvious the invention

recited by Claim 1. As such, Applicants respectfully submit Claim 1 should be deemed allowable.

Claims 2 and 4 depend from Claim 1. It is respectfully submitted that these dependent claims be deemed allowable for the same reason(s) Claim 1 is allowable, as well as for the additional subject matter recited therein.

Withdrawal of the rejection is respectfully requested.

**Conclusion**

In view of the foregoing, reconsideration of the application, withdrawal of the any outstanding rejections, rejoinder of Claim 3, allowance of Claims 1-4, and the prompt issuance of a Notice of Allowability are respectfully solicited.

Should the Examiner believe anything further is desirable in order to place this application in better condition for allowance, the Examiner is requested to contact the undersigned at the telephone number listed below.

In the event this paper is not considered to be timely filed, the Applicants respectfully petition for an appropriate extension of time. Any fees for such an extension, together with any additional fees that may be due with respect to this paper, may be charged to counsel's Deposit Account No. 01-2300, **referencing docket number 100725-00118.**

Respectfully submitted,  
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Enclosures: Request for Continued Examination  
Petition for Extension of Time